

BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

Annual Reports for the Year Ended December 31, 2002, Filed by Alternative
Telecommunications Utility-Telecommunications Resellers on a Confidential Basis

RE: PSC Control Nos. 24040, 24041, 24042, 24043, 24053, 24054, 24056, 24057,
24076, and 25750

CONFIDENTIALITY DETERMINATION

On February 24, 2003, the Public Service Commission (Commission) issued a document entitled "Information Regarding Confidential Filings" concerning the 2002 Alternative Telecommunications Utility-Telecommunications Reseller (RES) annual report. The document detailed the filing process associated with the 2002 RES annual report¹ as well as previous confidentiality rulings concerning RES annual reports.²

On April 1 and 29, 2003, TTI National, Inc. (TTI) (utility 7039) submitted written applications seeking confidential treatment of certain information in its 2002 RES annual report. The information is filed under document PSC control numbers 24040, 24041, 24053, and 24054.³

¹ The February 24, 2003, document noted that the 2002 RES annual report could be filed using one of two procedures: 1) File the entire report on a public basis using the annual report program's e-mail capabilities; or 2) Submit a request for confidential handling, in accordance with Wis. Admin. Code § PSC 2.12, in conjunction with a manual filing of the report. A manual filing consists of two completed Confidentiality Request forms, two notarized affidavits, confidential hard copy pages, a confidential diskette containing annual report program files, and a complete public version of the 2002 report, the latter which is posted on the Commission's web page.

² The document noted that, subsequent to the Commission's denial of confidentiality requests concerning information contained in the 2001 RES annual report, a number of companies sought judicial review or filed a petition for reconsideration and stay of the Commission's determination. The Commission voluntarily stayed its determination pending the outcome of those court cases, which are still pending in the Dane County Circuit Court, and/or any subsequent related Commission action.

³ Confidentiality Request Nos. 24040 and 24041 (April 1, 2003) and 24053 and 24054 (April 29, 2003).

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On April 1 and 29, 2003, Telecom USA (utility 7101) submitted written applications seeking confidential treatment of certain information in its 2002 RES annual report. The information is filed under document PSC control numbers 24042, 24043, 24056, and 24057.⁴

On April 1 and May 15, 2003, ACC National Long Distance Corporation (ACC) (utility 7905) submitted written applications seeking confidential treatment of certain information in its 2002 RES annual report. The information is filed under document PSC control numbers 24076 and 25750.⁵

In particular, the above-referenced companies seek confidential treatment for the Calculation of Assessable Revenues for Remainder and Telephone Relay Assessment Purposes; Cost of plant in Wisconsin utilized by the reseller for provision of telecommunications services in Wisconsin; Cost basis (including capital leases) of transmission facilities (excluding switches) in Wisconsin, including wire, cable, fiber optics or radio, and associated electronics owned, operated, managed or controlled by the telecommunications reseller, if in excess of \$400,000 as of December 31, 2002; and gross operating revenues, minutes of use and average number of customers generated by the provision of intrastate Wisconsin telecommunications services⁶ information on lines 1-5, 6, 7, and 8-10, respectively, on p. 6, Assessable Revenues; and the cost

⁴ Confidentiality Request Nos. 24042 and 24043 (April 1, 2003) and 24056 and 24057 (April 29, 2003).

⁵ Confidentiality Request Nos. 25750 (April 1, 2003) and 24076 (May 15, 2003).

⁶ The revenue data contained in this item is used to determine assessable revenues for intrastate universal service fund (USF) assessment purposes.

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to p. 6⁷ in their respective 2002 RES annual reports. For the reasons stated herein, confidential treatment for the above specifically identified data is **GRANTED** on a provisional basis, without consideration of the merits of the arguments of any company contained in respective affidavits accompanying the 2002 RES annual reports, based on the current pending status of related court cases.

The Commission has the authority to compel the submittal of this information pursuant to Wis. Stat. § 196.25. This confidentiality determination is made pursuant to Wis. Admin. Code § PSC 2.12.

All of the above-referenced companies are Alternative Telecommunications Utility-Telecommunications Resellers (resellers) which are required to file an RES annual report with the Commission. The statutory filing date for the RES annual report covering 2002 calendar year operations was April 1, 2003; 355 resellers were required to file this report for the 2002 calendar year.⁸

Confidential treatment of the Calculation of Assessable Revenues for Remainder and Telephone Relay Assessment Purposes; Cost of plant in Wisconsin utilized by the reseller for provision of telecommunications services in Wisconsin; Cost basis (including capital leases) of transmission facilities (excluding switches) in Wisconsin, including wire, cable, fiber optics or radio, and associated electronics owned, operated, managed or controlled by the

⁷ While TTI and Telecom USA did not explicitly seek confidential treatment of selected information included on p. 6 (e.g., Cost of plant in Wisconsin utilized by the reseller for provision of telecommunications services in Wisconsin, and Cost basis (including capital leases) of transmission facilities (excluding switches) in Wisconsin, including wire, cable, fiber optics or radio, and associated electronics owned, operated, managed or controlled by the telecommunications reseller, if in excess of \$400,000 as of December 31, 2002), they did seek confidential treatment of a portion of the schedule footnote for p. 6 shown on p. 10 pertaining to each company's respective cost of plant amount.

⁸ As of the date of this determination, 271 of the 355 resellers have actually filed the 2002 RES annual report with the Commission.

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radio, and associated electronics owned, operated, managed or controlled by the telecommunications reseller, if in excess of \$400,000 as of December 31, 2002; and gross operating revenues, minutes of use and average number of customers generated by the provision of intrastate Wisconsin telecommunications services information on lines 1-5, 6, 7, and 8-10, respectively, on p. 6, Assessable Revenues; and the cost of plant portion of the schedule footnote shown on p. 10, Schedule and Report Notes, applicable to p. 6 in the above-referenced companies' 2002 RES annual reports is **granted** on a provisional basis. Trade secret status for such information under Wis. Stat. §§ 19.36(5) and 134.90(1)(c), as claimed by the three companies, is likewise **granted** on a provisional basis.

Pursuant to its jurisdiction under Wis. Stat. §§ 196.02(1), 196.14, and other provisions of Wis. Stat. ch. 196 and Wis. Stat. §§ 19.32-.39, as may be pertinent hereto, the Commission grants provisional confidential treatment to the above-referenced companies' Calculation of Assessable Revenues for Remainder and Telephone Relay Assessment Purposes; Cost of plant in Wisconsin utilized by the reseller for provision of telecommunications services in Wisconsin; Cost basis (including capital leases) of transmission facilities (excluding switches) in Wisconsin, including wire, cable, fiber optics or radio, and associated electronics owned, operated, managed or controlled by the telecommunications reseller, if in excess of \$400,000 as of December 31, 2002; and gross operating revenues, minutes of use and average number of customers generated by the provision of intrastate Wisconsin telecommunications services information on lines 1-5, 6, 7, and 8-10, respectively, on p. 6, Assessable Revenues; and the cost of plant portion of the schedule footnote shown on p. 10, Schedule and Report Notes, applicable to p. 6 contained in


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This confidentiality determination is not a final determination under the Public Records law; it is the Commission's decision for purposes of managing its files. This confidentiality determination does not prejudice the right of any person to submit a public records request to inspect the contents of the filings subject to this determination.

This order is effective upon mailing.

Dated at Madison, Wisconsin, 8 July 2003

For the Commission:



Gary A. Evenson
Acting Administrator
Telecommunications Division

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See attached Notice of Appeal Rights

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Notice of Appeal Rights

Notice is hereby given that a person aggrieved by the foregoing decision has the right to file a petition for judicial review as provided in Wis. Stat. § 227.53. The petition must be filed within 30 days after the date of mailing of this decision. That date is shown on the first page. If there is no date on the first page, the date of mailing is shown immediately above the signature line. The Public Service Commission of Wisconsin must be named as respondent in the petition for judicial review.

Notice is further given that, if the foregoing decision is an order following a proceeding which is a contested case as defined in Wis. Stat. § 227.01(3), a person aggrieved by the order has the further right to file one petition for rehearing as provided in Wis. Stat. § 227.49. The petition must be filed within 20 days of the date of mailing of this decision.

If this decision is an order after rehearing, a person aggrieved who wishes to appeal must seek judicial review rather than rehearing. A second petition for rehearing is not an option.

This general notice is for the purpose of ensuring compliance with Wis. Stat. § 227.48(2), and does not constitute a conclusion or admission that any particular party or person is necessarily aggrieved or that any particular decision or order is final or judicially reviewable.

Revised 9/28/98